

HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.12122 of 1996

16-02-2006

Between:

V.Krishna Nagesh

... Petitioner

and

The Commissioner of Collegiate Education,
Andhra Pradesh, Hyderabad, and others.

... Respondents

HON'BLE SRI JUSTICE GHULAM MOHAMMED

W.P.No.12122 of 1996

ORDER:

The writ petition is filed questioning the proceedings of the first respondent in Rc.No.579/PCI-I/93 dated 07-03-1996 by which the fourth respondent was appointed as Junior Lecturer in Mathematics in Sri Y.N.College, Narsapur, West Godavari district. The petitioner seeks writ of mandamus declaring the said proceedings as illegal and arbitrary and contrary to G.O.Ms.No.362 dated 07-10-1994.

The case of the petitioner is that he was appointed as part-time Lecturer in Mathematics in unaided post and when one of the Lecturers in the aided post expired, the petitioner is deemed to have been continued in such post. While so, the fourth respondent was appointed as part-time Lecturer in the year 1988 whereas the petitioner was appointed as such on 22-08-1984 much prior to the fourth respondent. The petitioner stated that a notification was issued calling for fresh applications to fill up the said vacancy and having worked in the regular vacancy for more than five years, he is entitled for regularisation. Instead, the fourth respondent was appointed as Junior Lecturer on the recommendation made by second and third respondents.

The fourth respondent filed a detailed counter-affidavit, *inter alia*, contending that the petitioner was appointed in an unaided post that too on temporary basis and he had secured 53% in the post-graduate degree which makes him ineligible for regular appointment as Lecturer in the Degree college. The fourth respondent categorically stated that his appointment is made by following the procedure contemplated under G.O.Ms.No.119 dated 22-03-1991 and G.O.Ms.No.12 dated 10-01-1992 and he was

not regularised in terms of G.O.Ms.No.362 dated 07-10-1994. The fourth respondent had got the required percentage of marks to be eligible for the post of Lecturer in degree college and he had applied for the post and was selected in order of merit and his appointment was subject to the approval of the first respondent, which was issued on 07-03-1996 pursuant to the proposals sent by the management on 15-02-1994.

Heard learned counsel for the parties and perused the material on record.

Learned counsel for the petitioner contended that the petitioner had been working as Lecturer in the same college and is an experienced Lecturer whereas the fourth respondent is his student and since the petitioner worked for more than five years in the post, he is entitled to regularisation.

On the other hand, learned counsel appearing for fourth respondent contended that the fourth respondent along with petitioner applied in response to the notification for the aided post of Junior Lecturer in Mathematics and the petitioner was not selected while the fourth respondent stood third in the merit list and prior permission was obtained from the competent authority for his appointment. Further, the appointment was approved by the Commissioner of Collegiate Education after following the prescribed procedure and the proposal sent by the third respondent for such appointment.

Learned counsel appearing for the third respondent management contended that the petitioner and fourth respondent had applied for the said post and the fourth respondent stood fourth while the petitioner was placed at 13th in the order of merit and as such, the petitioner was unsuccessful in the selection. Learned counsel further contended that the selection process was made in accordance with the relevant GOs and ultimately, the proposal sent by the management was approved by

the competent authority and therefore, the first respondent issued impugned order dated 07-03-1996 appointing fourth respondent purely on the basis of merit. It is also stated that opportunity was given to the petitioner to improve his percentage of marks, but the same was not availed of.

Admittedly, the petitioner was appointed as part-time lecturer in unaided post and on the demise of a Lecturer in the aided vacancy, the post was vacant and the petitioner continued to work as part-time Lecturer. The petitioner claims regularisation on the premise that he was appointed as part-time Lecturer prior to the appointment of fourth respondent and that he has the required experience and qualification. The third respondent had issued a notification in order to fill up the aided vacancy in the post of Lecturer in Mathematics besides other posts of Lecturers. The petitioner and fourth respondent have applied pursuant to the notification and they had undergone the process of selection. After following the procedure prescribed by the Government in the matter relating to the appointment to the posts of aided Lecturer, the fourth respondent was appointed. It is not in dispute that the petitioner does not possess the minimum percentage of marks to be eligible for the post of Lecturer. The contention of the management that the petitioner did not improve the percentage of marks in post-graduate degree is also not disputed. The stand of the management that the fourth respondent is placed at S.No.4 in the merit list and petitioner is at S.No.13 are not at all disputed, and thereafter, the management had sent the proposal and the merit list for appointment to the post of Lecturer in Mathematics to the first respondent, who in turn, had approved the same and thus, the fourth respondent came to be appointed. It is not the case of the petitioner that pursuant to the notification, he was selected for the aided post of Lecturer in Mathematics and is placed high up in the order of merit than that of the fourth respondent. In these circumstances, the appointment of fourth respondent cannot be said to be illegal or

contrary to the GO governing the field.

In the result, the writ petition is dismissed without any order as to costs.

16-02-2006

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